

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201114349
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: April 26, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on April 26, 2011. The claimant appeared and testified.

ISSUE

Was disability medically established?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

- (1) Claimant is currently unemployed.
- (2) In September 2008, the Claimant was fired from her last job.
- (3) Claimant's vocational factors are: age 26, high school education, and past unskilled to semi-skilled work in a nursing home doing laundry and retail store assistant manager in a beauty store selling supplies.
- (4) On February 19, 2010, the Claimant applied for MA/SDA, was denied on February 22, 2010, per BEM 260/261, and requested a hearing on March 3, 2010.

- (5) Claimant's disabling complaints are: bipolar disorder and borderline personality disorder (Medical Packet, Page 123).
- (6) Medical Residual Functional Capacity Assessment on [REDACTED] states the Claimant is not significantly limited in ability to remember locations and work-like procedures, understand and remember very short and simple instructions, understand and remember detailed instruction, carryout very short and simple instructions, perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances, sustain an ordinary routine without special supervision, work in coordination with/or proximity to others without being distracted by them, make simple work-related decisions, ask simple or request assistance, get a long with co-workers or peers without distracting them or exhibiting behavioral extremes, maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness, respond appropriately to changes in the work setting, be aware of normal hazards and take appropriate precautions, travel in unfamiliar places or use public transportation and set realistic goals or make plans independently of others; and that the Claimant is moderately limited in ability to carryout detailed instructions, maintain attention and concentration for extended periods, complete a normal work-day and work week without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and length of rest periods, interact appropriately with the general public, and accept instructions and respond appropriately to criticism from supervisors (Medical Packet, Pages 37 and 38).
- (7) Psychiatric evaluation on [REDACTED] states the Claimant was alert and oriented to person, place, and time; that she was able to remember presidents back to Clinton; that she showed adequate verbal fluency, good comprehension, and repetition; that naming was accurate; that fund of information was adequate; that her judgment overall seem to be intact; that insight was intact; and stated a GAF of 40 (Medical Packet, Page 98).
- (8) Medical exam of functional limitations on [REDACTED] states the Claimant has not experienced substantial loss with regard to her ability to understand, carryout, and remember simple instructions; that she has moderately difficulty in maintaining social functioning, concentration and persistence or pace (Medical Packet, Pages 40 and 42).
- (9) Medical exam on [REDACTED], states the Claimant's memory and cognition were grossly intact with no complaints mentioned by the Claimant (Medical Report, Page 45).
- (10) Psychiatric report on [REDACTED], the Claimant has had a history of successfully controlling her emotional dysfunctions with medication; that she has regularly have medications either increased in dosage level or changed

entirely to a different medication; and stated a current/highest past year GAF of 44 (Medical Packet, Page 117).

- (11) SHRT report dated February 8, 2011, states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 23).

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The facts above are undisputed:

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of

medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).

4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, the evidence establishes that the Claimant is not engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record establishes that the Claimant is significantly limited in performing basic work activities as defined below.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;

- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting.
20 CFR 416.921(b).

Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish that the Claimant's impairments meet/equal a Social Security listing. Therefore, disability is not denied at this step.

At Step 4, the objective medical evidence does not establish the Claimant's inability to do any of her past work, despite her severe impairment, especially that as a retail beauty assistant manager. Therefore, disability is denied at this step.

The DHS Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the SDA program: To receive SDA, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, Page 1. Because the Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that Claimant is unable to work for a period exceeding 90 days, the Claimant does not meet the disability criteria for SDA, either.

Therefore, the Claimant has not established disability as defined above, by the necessary competent, material, and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that disability was not medically established.

Accordingly, MA /SDA denial is UPHELD.

/s/

William Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 16, 2011

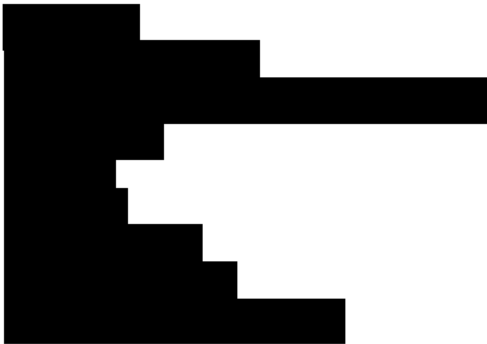
Date Mailed: May 16, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

WAS/ar

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the 'cc:' field.